

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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|-------------------------------|---|-------------------------|
| In the Matter of |) | |
| |) | |
| WSUA BROADCASTING CORPORATION |) | File No. BR-20030930AHG |
| |) | Facility ID No. 55403 |
| |) | |
| Licensee of Station WSUA(AM) |) | |
| Miami, Florida |) | |

ORDER

Adopted: February 28, 2005

Released: March 1, 2005

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Media Bureau and WSUA Broadcasting Corporation ("WBC"). The Consent Decree resolves issues regarding whether WBC misrepresented facts to, or lacked candor with, the Commission regarding Station WSUA(AM) in violation of Sections 1.17 and/or 73.1015¹ of the Commission's rules, and violated Section 73.3526 which governs the maintenance of the station's public file.²

2. The Consent Decree provides among other things, that WBC will institute a Compliance Plan for Station WSUA(AM) and make a \$15,000 voluntary contribution to the United States Treasury. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, which is incorporated herein by reference, we believe that the public interest will be served by adopting the Consent Decree. We also conclude that the matters raised in the investigation do not raise any substantial or material questions of fact regarding WBC's qualifications to remain a Commission licensee.

4. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) and (j) of the Communications Act of 1934, as amended,³ and Sections 0.111 and 0.311 of the Commission's rules,⁴ that the Consent Decree attached hereto IS ADOPTED.

5. IT IS FURTHER ORDERED that WBC shall make its voluntary contribution to the United States Treasury by mailing a check or similar instrument payable to the order of the Federal Communications Commission, Forfeiture Collection Section, Finance Branch, P.O. Box 73482, Chicago,

¹ 47 C.F.R. §§ 1.17, 73.1015.

² 47 C.F.R. § 73.3526.

³ 47 U.S.C. § 4(i) and (j).

⁴ 47 C.F.R. §§ 0.111, 0.311.

Illinois 60673-7482. The payment must include FRN No. 0006985030. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, Illinois 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving Bank One, and account number 1165259.

6. IT IS FURTHER ORDERED that copies of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to WSUA Broadcasting Corporation, 2100 Coral Way, Miami, Florida, 33145, and to its counsel, Norman P. Leventhal, Esq., Leventhal Senter & Lerman, PLLC, 2000 K Street, N.W., Suite 600, Washington, D.C. 20006-1809.

7. IT IS FURTHER ORDERED that pursuant to Section 309(k) of the Communications Act of 1934, as amended,⁵ the application (File No. BR-20030930AHG) for renewal of license for station WSUA(AM), Miami, Florida IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION



W. Kenneth Ferree
Chief, Media Bureau

⁵ 47 U.S.C. § 309(k).

CONSENT DECREE**I. Introduction**

1. This Consent Decree is entered into by the Media Bureau of the Federal Communications Commission and WSUA Broadcasting Corporation, licensee of Station WSUA(AM), Miami, Florida.

II. Definitions

2. For purposes of this Consent Decree, the following definitions shall apply:

- a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §151 *et. seq.*;
- b) "Bureau" means the Media Bureau of the Federal Communications Commission;
- c) "Commission" or FCC means the Federal Communications Commission;
- d) "Compliance Plan" means the processes and procedures developed by WBC in an effort to ensure compliance with the Act and the Rules regarding the maintenance of WSUA(AM)'s public file.
- e) "Effective Date" means the date on which the FCC releases the Order;
- f) "Execution Date" means the date on which this Consent Decree is executed by the Parties;
- g) "Order" means an Order of the Bureau adopting this Consent Decree;
- h) "Parties" means the Bureau and WBC;
- i) "Rules" means the Commission's rules, found in Title 47 of the Code of Federal Regulations;
- j) "Violations" means the violation of Section 73.3526 of the Rules; and
- k) WBC refers to WSUA Broadcasting Corporation, licensee of Station WSUA(AM), Miami, Florida.

III. Background

3) On September 30, 2003, WBC filed a license renewal application⁶ for WSUA(AM). As a result of statements made to the Bureau in the renewal application concerning compliance with the Commission's rule regarding maintenance of a station's public inspection file,⁷ the Bureau sought

⁶ File No. BR-20030930AHG.

⁷ 47 C.F.R. § 73.3526.

additional information initially by telephone and subsequently in a detailed inquiry letter issued pursuant to Section 1.88 of the Commission's rules.⁸

IV. Agreement

4) WBC and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. WBC and the Bureau each represent and warrant that its signatory is duly authorized to enter into this Consent Decree on its behalf. WBC agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree.

5) The parties agree and acknowledge that this Consent Decree shall constitute a final settlement between WBC and the Bureau concerning WBC's Violations as discussed herein.

6) In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees that it will not use the Violations in any action against WBC, provided that WBC satisfies all of its obligations under this Consent Decree. In the event that WBC fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to the Violations, and/or the violation of this Consent Decree.

7) WBC hereby stipulates that it violated Section 73.3526 in its operation of WSUA(AM) during the current license term.

8) WBC agrees to make a voluntary contribution to the United States Treasury in the amount of Fifteen Thousand Dollars (\$15,000), within thirty (30) days of the Effective Date of the Order. Such contribution shall be made, without further protest or recourse to a *trial de novo*, by mailing a check or similar instrument, payable to Federal Communications Commission. The payment must include FRN No. 0006985030. Any payment by check or money order may be mailed to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Any payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, Illinois 60661. Any payment by wire transfer may be made to ABA Number 071000013, receiving Bank One, and account number 1165259.

9) WBC stipulates that, as of the Effective Date of this Consent Decree, WSUA(AM)'s public file fully comports with Section 73.3526 of the Rules. WBC further agrees to implement the following Compliance Plan (summarized in the Appendix) to ensure that WSUA(AM)'s public file remains in compliance with Section 73.3526 of the Rules.

10) WBC agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that WBC fails to satisfy any condition or Commission rule, in the absence of Commission alteration of the condition or rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures.

11) This Consent Decree will be binding on WBC's successors and assigns.

⁸ 47 C.F.R. § 1.88.

12) WBC waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Order, provided the Order adopts the Consent Decree without change, addition or modification.

13) WBC agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. Section 504 and 47 C.F.R. Section 1.1501 *et seq.*, relating to the matters discussed in this Consent Decree.

14) WBC and the Bureau agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided the Order adopts the Consent Decree without change, addition or modification.

15) WBC and the Bureau agree that if WBC, the Commission or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Order adopting this Consent Decree, neither WBC nor the Commission will contest the validity of the Consent Decree or Order, and WBC and the Commission will waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and will consent to a judgment incorporating the terms of this Consent Decree.

16) WBC and the Bureau agree that, in the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

17) This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

WSUA BROADCASTING CORPORATION

By: A. H. [Signature]
Alejandro Santo Domingo, President

Date: 2/25/05

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: W. Kenneth Ferree, Chief

Date: _____

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WSUA BROADCASTING CORPORATION

By: _____
Alejandro Santo Domingo, President

Date: _____

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: _____
W. Kenneth Ferree, Chief

Date: 2/25/05

APPENDIX

Compliance Plan of WSUA BROADCASTING CORPORATION

- I. WSUA BROADCASTING CORPORATION will institute the following procedures:
- (A) program hosts will log all broadcasts of public affairs programming; these logs will be compiled into quarterly programs and issues lists and timely placed into WSUA(AM)'s public file;
 - (B) late-filed documents will be signed by the station manager and accompanied with a statement indicating the nature of the document and the date placed in the public file; and
 - (C) a "zero tolerance" policy will be adopted for violations of the Commission's rules; employees with FCC-related responsibilities will be subject to sanctions, including suspension without pay and termination, for the failure to comply with the Commission's rules;
- II. For a period of three years ending on February 1, 2008, WBC will conduct in-house audits of WSUA(AM)'s public file as follows:
- (A) quarterly audits, by telephone or facsimile, will be conducted by WBC's counsel;
 - (B) a semi-annual review will be conducted by WBC personnel; and
 - (C) annual, in person, audits of WSUA's public file will be conducted by WBC's counsel.
- III. WBC shall submit a yearly certification that its public inspection file fully complies with Section 73.3526. If WBC cannot truthfully make this certification, it shall set forth in detail any public file deficiencies and list any corrective measures taken. This report shall be due on October 1st of each year of the license term.
- IV. The Compliance Plan, set forth above, will be under the direct supervision of WBC's President, Alejandro Santo Domingo, or any member of the WBC Board of Directors designated by Mr. Santo Domingo, or in the event Mr. Santo Domingo is no longer with the company, his successor.